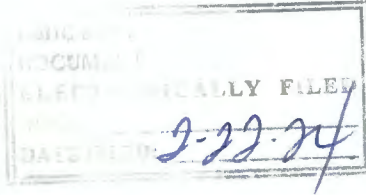


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February 21, 2024

VIA ECF

Honorable Lewis A. Kaplan
United States District Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *In re Matter of the Ex Parte Application of B&C KB Holding GmbH for an Order to take Discovery Pursuant to 28 U.S.C. § 1782 from Goldberg Lindsay & Co. LLC d/b/a Lindsay Goldberg and Michael Dees, Case No. 1:22-mc-00180-LAK-VF*

Dear Judge Kaplan:

On behalf of Respondents, we write pursuant to Your Honor's Individual Rules of Practice to respectfully request leave to file certain information under seal in connection with Respondents' Objections to Magistrate Judge Figueredo's Order Denying Respondents' Motion to Quash and Alternative Relief Requested Therein (the "Objections"). Specifically, Respondents seek leave to redact references in the Objections to documents that were previously submitted in this matter and sealed pursuant to Magistrate Judge Figueredo's July 5, 2023 and February 7, 2024 Orders (ECF Nos. 82, 117) (the "Previously Sealed Documents").

"[T]he decision as to access is one best left to the sound discretion of the trial court, a discretion to be exercised in light of the relevant facts and circumstances of the particular case." *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 599 (1978) (internal citations omitted)). In exercising that discretion, courts consider "whether good cause exists to overcome the presumption of open access to documents filed," *Geller v. Branick Int'l Realty Corp.*, 212 F.3d 734, 738 (2d Cir. 2000), and they must "balance competing considerations against" access, including but not limited to "the danger of impairing law enforcement or judicial efficiency" and "the priva[te] interest[] of those resisting disclosure," *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 120 (2d Cir. 2006) (internal quotations and citations omitted). Courts permit sealing when it "is essential to preserve higher values and is narrowly tailored to serve that interest." *Id.* (quoting *In re New York Times Co.*, 828 F.2d 110, 116 (2d Cir. 1987)).

In accordance with the Orders, Respondents seek to redact references to the Previously Sealed Documents, which (i) include documents at issue in a pending confidential arbitration by B&C KB Holding GmbH against Atlas Flexibles Coöperatief U.A. ("Atlas") and Lindsay

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Goldberg Europe GmbH ("LGE"); (ii) reflect sensitive, non-public financial and business information of Atlas, LGE, and other parties; (iii) contain documents pertaining to an ongoing criminal investigation; (iv) contain identifying information regarding allegations made against or regarding specific individuals based in Europe in confidential and/or non-public proceedings, and therefore implicate Regulation (EU) 2016/679 (the "GDPR"); and (v) implicate the privacy interests of third parties. *See* ECF No. 82 (July 2023 Order), at 1-2; ECF No. 117 (Feb. 2024 Order), at 1, 4-5. For the reasons set forth in their prior requests, *see* ECF Nos. 79, 117, and pursuant to the Orders, Respondents request leave to redact references to the same documents in their Objections. Respondents greatly appreciate the Court's attention to this matter.

Respectfully submitted,

/s/ Eric F. Leon

Eric F. Leon
of LATHAM & WATKINS LLP

cc: All counsel of record (via ECF)

SO ORDERED


LEWIS A. KAPLAN, USDJ

2/22/24